

### REMARKS

File concurrently here with a one-month extension of time which extends to the shortened statutory period for response to October 21, 2006. Accordingly, Applicant respectfully submits that this Response is being timely followed.

The Official Action dated June 21, 2006, has been received and its contents carefully noted. In view thereof, claims 1 and 4 through 9 have been amended in order to better define that which Applicant regards as invention. As previously, claims 1 through 9 are presently pending in the instant application.

With reference now to the Official Action and particularly the Page 2 thereof, claims 1 through 9 were been rejected on the grounds of Non-Statutory Obviousness Type Double Patenting as being unpatentable over claims 1 through 9 of U.S. Patent No. 6,847,139. The Examiner is of the position that while the claims are not identical, they are not patentably distinct from one another. While the Applicant disagrees with the Examiner in this regard, filed concurrently herewith is a Terminal Disclaimer disclaiming that portion of the present application which may extend beyond the term of U.S. Patent No. 6847139. Accordingly, with the filing of such a terminal disclaimer, it is respectfully submitted that the rejection of claims 1 through 9 on the grounds of Non-Statutory Obviousness Type Double Patenting has been overcome.

With reference now to paragraph 3 of the Office Action claims 1 and 3 have been rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent No. 6,850,138 issued to Sakai. This rejection is respectfully traversed in that the patent to Sakai fails to disclose or suggest that which is presently set forth by Applicant's claimed invention.

As can be seen for the foregoing amendments, independent claim 1 has been amended to recite a multi-function vibrating actuator device wherein an air passage hole is formed at least one part among the housing, cover and diaphragm, and said magnetic circuit is assembled with an outer surface thereof in close proximity to an inner surface of the housing so as to create a clearance between an outer surface of the magnetic circuit and an inner surface of the housing wherein the clearance is adjusted to be more than 0% and not more than 2.5% of the inside radius of the housing so that a range of frequencies at which the magnetic circuit is able to vibrate can be expanded thereby restricting the amount of movement of interior air in a space formed by the diaphragm and the magnetic circuit and of interior air in a space formed by the magnetic circuit and the cover. Clearly, the patent to Sakai neither discloses nor suggests these features.

That is, the above described clearance is one formed between an outer surface of the magnetic circuit and an inner surface of the housing as recited in independent claim 1. As noted from Applicant's specification in Paragraphs 79 through 81, such a construction has distinctive advantages as noted therein.

With respect to the teachings of Sakai, this reference clearly fails to disclose or remotely suggest that which is presently set forth in Independent Claim 1. Particularly, because there is no description about the function, not to mention the size of the clearance between the outer surface of the yoke (1) and inner surface of the vibration transmitter (12) it is clear that the patent to Sukai fails to disclose or even remotely suggest that which is presently set forth by Applicant's claimed invention. While in rejecting Applicant's claimed invention, the Examiner states that as shown in the drawings, Sakai does estimate a small clearance between the outer surface of the magnetic circuit and an inner surface of the housing. The Examiner goes on to note that Sakai does not restrict the size for the clearance between the magnetic circuit and the housing; however, in this regard, the Examiner's merely states that it would have been obvious to one of ordinary skill in the art to provide any range of the radius of the clearance such as the range that is greater than 0% and smaller than 2.5% of the inside radius of the housing for better preventing the magnetic circuit device from being exceedingly displaced in the radial direction and for providing a better interval and a space between the magnetic circuit and the housing. Applicant respectfully traverses this assertion made by the Examiner.

Specifically, there is no disclosure nor remote suggestion in Sakai with respect to the range for the radius of the clearance as is specifically recited by Applicant's claimed invention. More specifically, Sakai fails to address the significance of restricting the range of the radius of the clearance in the manner set forth in accordance with Applicant's claimed invention. The only motivation found which would lead one of ordinary skill of the art in the manner suggested by the Examiner's would be Applicant's specifications itself. Accordingly, it is respectfully submitted Applicant's claimed invention as set forth in independent claim 1 as well as claim 3 which depends therefrom clearly distinguishes over the teachings of Sakai and is in proper condition for allowance.

With reference to paragraph 4 of the Office Action, claims 5 through 9 have been rejected under 35 U.S.C. 1039a) as being unpatentable over U.S. Patent No. 6,570,993 issued to Fukuyama. This rejection is likewise respectfully traversed in that the patent to Fukuyama neither discloses nor suggests that which is presently set forth by Applicant's claimed

invention.


As with independent claim 1, each of independent claims 4 and 5 have been amended to recite that the clearance is adjusted to be more than 0% and not more than 2.5% of the inside radius of the housing while independent claims 6 through 9 recite that the clearance between an outer surface of the magnetic circuit and an inner surface of the housing is adjusted to be more than 0 mm and not more than 0.2 mm so that a range of frequencies at which the magnetic circuit is able to vibrate can be expanded by restricting the amount of movement of air passing through the clearance. Clearly, the patent to Fukuyama fails to disclose or remotely suggest these features.

Once again, it appears that the Examiner appreciates that the patent to Fukuyama fails to disclose or suggest the particular radius of the clearance as claimed. In view of such shortcoming, the Examiner states that it would have been obvious to one skilled in the art to provide any range for the radius of the clearance such as the range specifically set forth by Applicant's claimed invention. Once again, it is respectfully submitted that one of ordinary skill in the art would not be led in the manner suggested by the Examiner, but for that which is presently set forth by Applicant's claimed invention. The Examiner provides no independent motivation for asserting that Applicant's claimed invention would be obvious in view of the limited teachings of Fukuyama. In this regard, it is noted that there is merely a description on the clearance size such as a statement in Fukuyama that the space 20 is set to be smaller than the space between the magnetic gap and the voice coil 18. Because of this, even when the movable portion 19 is moved by shock, the inner diameter of the frame 9 receives the outer periphery of the movable portion 19. While this description discusses a necessary size of the clearance, its purpose is far removed from that set forth in accordance with Applicant's claimed invention. Moreover, this description does not provide any suggestion or motivation to one of ordinary skill in the art to achieve the particular clearance size as set forth in accordance with Applicant's claimed invention. Accordingly, it is respectfully submitted that Applicant's claimed invention as set forth in each of independent claims 4 through 9 clearly distinguishes over the teachings of Fukuyama and are in proper condition for allowance.

Therefore, in view of the foregoing respectfully requested that the rejections of record be reconsidered and withdrawn by the Examiner, the claims 1 through 9 be allowed that the application be passed to issue.

Should the Examiner believe a conference will be of benefit expediting the prosecution the instant application, he is hereby invited to telephone counsel to arrange such a conference.

Respectfully submitted,



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